Customs Bulletin

Regulations, Rulings, Decisions, and Notices concerning Customs and related matters

and Decisions

of the United States Court of Appeals for the Federal Circuit and the United States Court of International Trade

Vol. 17 MAY 25, 1983 No. 21

This issue contains:

THE DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

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U.S. Customs Service

Treasury Decisions

(T.D. 83-104)

Decision Denying Domestic Interested Party Petition Requesting Reclassification of Certain Prefinished Hardboard Siding: Petitioner's Desire To Contest the Decision

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of (1) decision on domestic interested party petition, and (2) receipt of notice of petitioner's desire to contest the decision.

SUMMARY: In response to a petition from a domestic interested party requesting that certain prefinished hardboard siding be reclassified for tariff purposes under the provision for other hardboard, whether or not face finished, in item 245.30, Tariff Schedules of the United States (TSUS), Customs invited public comments with regard to the correctness of the present classification. After consideration of the comments received and further review of the matter, Customs has advised the petitioner that such prefinished hardboard siding would continue to be classified under the provision for other building boards, of vegetable fibers (including wood fibers), in item 245.90, TSUS. Upon being informed that its petition had been denied, the petitioner filed a notice of its desire to contest the decision.

FOR FURTHER INFORMATION CONTACT: Janet L. Johnson, Classification and Value Division, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

Background

On July 13, 1981, a petition was filed under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), by the American Hardboard Association, a national trade association representing American manufacturers of prefinished hardboard siding, requesting that certain imported prefinished hardboard siding be reclassified under the provision for other hardboard in item 245.30, Tariff Schedules

of the United States (TSUS) (19 U.S.C. 1202), presently dutiable at 12 percent ad valorem. Such hardboard siding has been classified by Customs under the provision for other building boards, of vegetable fibers (including wood fibers), in item 245.90, TSUS, free of duty, following Customs ruling 061750 BF, dated November 14, 1980.

A notice of receipt of the petition was published in the Federal Register on March 22, 1982 (47 FR 12258), inviting public comment. Written comments were to have been received on or before May 21, 1982. By notice published in the Federal Register on May 27, 1982, (47 FR 23249), the period of time for the submission of comments was extended to June 21, 1982.

Nine commenters responded to the notice. Four favored the reclassification of the merchandise and five opposed any change. Those favoring reclassification generally supported the claims of the petitioner, which are set forth below.

In support of its contention that the merchandise involved is properly classifiable as other hardboard under item 245.30, TSUS, the petitioner made the following claims:

(1) Item 245.90, TSUS, is intended for insulation board products such as sheathing, ceiling tile, sound deadening board and roof deck, all low density products (*i.e.,* weighing 30 pounds or less per cubic foot).

(2) Finished hardboard products weighing 31 pounds or more per cubic foot should be classified in item 245.30, TSUS.

(3) Several passages from the American Society of Testing and Materials (ASTM) publication, ASTM D1554 (Standard Definitions of Terms Relating to Wood-Base Fiber and Particle Panel Materials) support the foregoing claims.

By a ruling dated October 29, 1982 (070255), Customs advised the petitioner that its first contention is contradicted by the annotated tariff schedules. Item 245.30, TSUS, provides only for "hardboard, whether or not face finished, other". As such, the provision covers only plain sheets and strips of hardboard, not advanced in any way except face finishing. The merchandise in question has been processed by more than face finishing; it has been rabbetted and grooved, and a plastic spline has been attached. Such processing advances the hardboard from a material to an article specially designed to be used as lap siding in the construction of walls. As such, the merchandise becomes a building board, classifiable in item 245.90, TSUS.

The first contention is also contradicted by statistical breakouts in the tariff schedules. Effective January 1, 1964, item 245.90, TSUS, was divided into two major statistical sub-categories: "weighing 26 pounds or less per cubic foot," and "other" (*i.e.,* weighing more than 26 pounds per cubic foot). Effective January 1, 1978, the two major sub-categories were changed to "weighing 30 pounds or less per cubic foot," and "other" (*i.e.,* weighing more

than 30 pounds per cubic foot). In view of the fact that the tariff schedules have contained these statistical suffix breakdowns under item 245.90, TSUS, since January 1, 1964, the petitioner's claim cannot overcome the administrative treatment of the tariff provision.

The petitioner's second claim is also contradicted by the tariff schedules. Schedule 2, Part 3, Headnote 1(e), TSUS, defines building boards as "panels of rigid construction, including tiles and insulation board, chiefly used in the construction of walls, ceilings, or other parts of buildings." The merchandise in question qualifies as "building board" according to the Headnote 1(e) definition.

Finally, concerning petitioner's third claim, when the tariff schedules provide a headnote which specifically defines a term such as "building boards," there is no need to resort to commercial definitions.

Decision on Petition and Receipt of Petitioner's Notice of Desire To Contest

In the ruling dated October 29, 1982, the petitioner was advised that its petition was denied and that Customs would continue its practice of classifying such prefinished hardboard siding in item 245.90, TSUS. In response, by letter dated November 29, 1982, the petitioner filed notice of its desire to contest this decision in accordance with section 516(c), Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and section 175.23, Customs Regulations (19 CFR 175.23).

After careful analysis of the comments received in response to the notice and further review of the matter, Customs remains of the opinion that its practice of classifying such prefinished hardboard siding under item 245.90, TSUS, is correct. This practice will continue provided that no decision of the United States Court of International Trade or the United States Court of Appeals for the Federal Circuit not in harmony with this practice is rendered.

Authority

This notice is being published in accordance with section 516(c), Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and section 175.24, Customs Regulations (19 CFR 175.24).

Drafting Information

The principal author of this document was Jesse V. Vitello, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: March 22, 1983.

Alfred R. DeAngelus,
Acting Commissioner of Customs.

[Published in the Federal Register, May 11, 1983 (48 FR 21231)]

(T.D. 83-105)

Bonds

Approval and discontinuance of bonds on Customs Form 7587 for the control of Instruments of International Traffic of a kind specified in section 10.41a of the Customs Regulations

Bonds on Customs Form 7587 for the control of instruments of international traffic of a kind specified in section 10.41a of the Customs Regulations have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: May 6, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Allis Chalmers Corp., P.O. Box 512, Milwaukee, WI; The American Ins. Co.	Feb. 24, 1983	Mar. 20, 1983	Milwaukee, WI $25,000
Asia Merchant Marine America, Inc., 1660 Geary St., San Francisco, CA; Washington International Ins. Co.	Mar. 15, 1983	Mar. 15, 1983	Portland, OR $10,000
Geo. S. Bush & Co., Inc., 259 Colman Bldg., Seattle, WA; Old Republic Ins. Co.	Nov. 15, 1982	Nov. 17, 1982	Seattle, WA $10,000
Del Monte Corp., One Market Plaza, San Francisco, CA; Federal Ins. Co. (PB 4/1/80) D 4/1/83 [1]	Apr. 1, 1983	Apr. 1, 1983	Buffalo, NY $10,000
Wm. R. Neal, Inc., P.O. Box 528, Port Huron, MI; St. Paul Fire & Marine Ins. Co. D 3/28/83	Apr. 24, 1967	Apr. 27, 1967	Detroit, MI $10,000
Olympia Brewing Co., Custer Way & Schmidt Place, P.O. Box 957, Olympia, WA; Washington International Ins. Co.	Mar. 16, 1983	Mar. 22, 1983	Seattle, WA $10,000
Rijbatainer Inc., 124 Fairfield Rd., Fairfield, NJ; Investors Ins. Co. of America D 4/18/83	June 20, 1980	June 20, 1980	New York Seaport $10,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
David Rivera, dba: Rivera Gas, 634 Monserrate St., Santurce, PR; The Home Ins. Co.	Apr. 4, 1983	Apr. 5, 1983	San Juan, PR $10,000
Rohde & Liesenfeld, Inc., One World Trade Center, New York, NY; Investors Ins. Co. of America	Apr. 18, 1983	Apr. 19, 1983	New York Seaport $10,000
Seneca Foods Corp., P.O. Box 71, Lee Rd., Prosser, WA; Old Republic Ins. Co.	Mar. 2, 1983	Mar. 3, 1983	Seattle, WA $10,000
Ralph V. Sluys, Box 744, Eureka, MT; Old Republic Ins. Co.	Apr. 29, 1982	Apr. 30, 1982	Great Falls, MT $10,000
Transcaribbean Maritime Corp., Box 564, San Juan, PR; Puerto Rican-American Ins. Co.	Apr. 15, 1983	Apr. 18, 1983	San Juan, PR $25,000
Trinicon (USA) Inc., 924 15th St., #3, Santa Monica, CA; Old Republic Ins. Co. (PB 4/24/80) D 3/16/83	Apr. 24, 1983	Apr. 28, 1983	New Orleans, LA $10,000
Westinghouse Electric Corp., Gateway Center, Pittsburgh, PA; Federal Ins. Co. (PB 5/21/77) D 3/25/83	Mar. 25, 1983	Mar. 31, 1983	New York Seaport $50,000

[1] Surety is American Home Assurance Co.

BON-3-10

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

U.S. Customs Service

Proposed Rulemaking

19 CFR Part 24

PROPOSED CUSTOMS REGULATIONS AMENDMENT RELATING TO ACCEPTANCE OF UNCERTIFIED CHECKS FROM CUSTOMHOUSE BROKERS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: The Customs Regulations provide that an uncertified check drawn by an interested party shall be accepted by Customs for the payment of duty provided certain conditions are met. An uncertified check, drawn by a customhouse broker (broker) licensed in a district where an entry for merchandise is filed on behalf of an importer, shall be accepted by Customs for the deposit of estimated duties. This document proposes to amend the regulations to provide that a broker, not licensed in the district where an entry is filed, also is an interested party for the purpose of acceptance of such broker's own uncertified check for the deposit of estimated duties for the entry transactions on behalf of an importer, provided the broker has on file a power of attorney which is unconditioned geographically for the performance of ministerial acts. Customs may look to the principal (importer) or to the surety should the check be dishonored. The purpose of this proposal is to relieve brokers of the unnecessary burden of requiring them to submit certified checks.

DATE: Comments must be received on or before July 15, 1983.

ADDRESS: Comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Darrell D. Kast, Chief, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 141.1(b), Customs Regulations (19 CFR 141.1(b)), provides, in part, that the liability for duties, both regular and additional, attaching on importation constitutes a personal debt due from the importer to the United States. An "importer", as defined in section 101.1(k), Customs Regulations, (19 CFR 101.1(k)), means the person primarily liable for the payment of any duties or an authorized agent acting on his behalf.

Section 111.1(b), Customs Regulations (19 CFR 111.1(b)), defines customhouse broker to mean a person who is licensed under Part 111 to transact Customs business on behalf of others.

Pursuant to section 111.2, Customs Regulations (19 CFR 111.2), a broker must obtain a separate license to transact the business of a broker, for each Customs district in which he desires to conduct business.

Section 24.1(a)(3), Customs Regulations (19 CFR 24.1(a)(3)), which relates to the collection of Customs duties, taxes, and other charges, provides that an uncertified check drawn by an interested party on a national or state bank or trust company of the United States, shall be accepted by Customs if the check is acceptable for deposit by a Federal Reserve bank, branch Federal Reserve bank, or other designated depository. Further, an uncertified check can be accepted only if there is on file with the district director an entry bond or other bond to secure the payment of the duties, taxes, or other charges, or if a bond has not been filed, the organization or individual drawing and tendering the uncertified check has been approved by the district director to make payment in this manner. Section 24.1(a)(3) also provides that in determining whether an uncertified check shall be accepted in the absence of a bond, the district director shall use available credit data obtainable without cost to the Government, such as that furnished by banks, local business firms, better business bureaus, or local credit exchanges, sufficient to satisfy him of the credit standing or reliability of the drawer of the check.

Under this regulation, an uncertified check, drawn by a broker licensed in a district where an entry for merchandise is filed on behalf of an importer, shall be accepted by Customs for the deposit of estimated duties. However, a question has been raised as to whether a broker, tendering an uncertified check to Customs for deposit of estimated duties for entries filed by another broker on behalf of an importer in a district in which the tendering broker is not licensed, is an authorized agent of the importer and therefore, an interested party for the purpose of the acceptance of the payment by Customs.

In a ruling dated March 11, 1982, Customs held that a broker not licensed in a district where an entry is filed is an authorized agent of the importer for the purpose of acceptance of the broker's uncertified check for the deposit of estimated duties for entry transac-

tions made by another broker on behalf of the importer if the unlicensed broker holds a power of attorney from the importer which is unconditioned geographically for the performance of ministerial acts.

Traditionally, most powers of attorney are limited geographically to particular districts, districts in which the importer is importing merchandise. In order to allow a broker to tender an uncertified check in districts in which he is not qualified, an unlimited power of attorney from the client-importer is necessary.

This ruling relieves a broker of an unnecessary burden in that the broker, not licensed in a district in which his client may file an entry, would no longer always be required to obtain a certified check for the payment of duties.

Customs believes it is necessary to incorporate the holding of this ruling into section 24.1 to assure uniformity of application by district directors and better inform brokers and broker associations of this practice.

This document proposes to amend section 24.1(a)(3) to provide that a broker, not licensed in the district where an entry is filed, is an interested party for the purpose of acceptance of such broker's own uncertified check for the deposit of estimated duties for entry transactions provided the broker has on file the necessary power of attorney which is unconditioned geographically for the performance of ministerial acts. Customs may look to the principal (importer) or to the surety should the check be dishonored.

COMMENTS

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) that are submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.11(b), Customs Regulations (19 CFR 103.11(b)), during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

EXECUTIVE ORDER 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

REGULATORY FLEXIBILITY ACT

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), it is hereby certified that the proposed regulation set forth in this document will not have a significant economic impact on a substantial number of

small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

DRAFTING INFORMATION

The principal author of this document was Charles D. Ressin, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

AUTHORITY

This amendment is proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), section 1, 19 Stat. 247, 249 (19 U.S.C. 197); section 1, 36 Stat. 965 (19 U.S.C. 198), section 624, 46 Stat. 759 (19 U.S.C. 1624), section 641, 46 Stat. 759, as amended (19 U.S.C. 1641), section 648, 46 Stat. 762 (19 U.S.C. 1648).

LIST OF SUBJECTS IN 19 CFR PART 24

Customs duties and inspection, Imports, Accounting.

PROPOSED AMENDMENT

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

It is proposed to amend section 24.1(a)(3), Customs Regulations (19 CFR 24.1(a)(3)), by adding a new sentence at the end of the paragraph to read as follows:

§ 24.1 Collection of Customs duties, taxes, and other charges.

(a) * * *

(3) * * *

For purposes of this paragraph, a customhouse broker, not licensed in the district where an entry is filed, is an interested party for the purpose of Customs acceptance of such broker's own check, provided the broker has on file the necessary power of attorney which is unconditioned geographically for the performance of ministerial acts. Customs may look to the principal (importer) or to the surety should the check be dishonored.

WILLIAM VON RAAB,
Commissioner of Customs.

Approved: April 27, 1983.

ROBERT E. POWIS,
Acting Assistant Secretary of the Treasury.

[Published in the Federal Register, May 16, 1983 (48 FR 21965)]

19 CFR Part 101

PROPOSED CUSTOMS REGULATIONS AMENDMENTS RELATING TO THE CUSTOMS FIELD ORGANIZATION

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations by Consolidating the ports of entry of Trout River, Chateaugay, and Fort Covington, New York, into a single port of entry with its headquarters at Trout River, New York. If adopted, this proposed change would eliminate duplication of port functions and permit better control of staffing resources without impairing services to area businesses or the general public. It would enable Customs to obtain more efficient use its personnel, facilities, and resources.

DATES: Comments must be received on or before July 15, 1983.

ADDRESS: Written comments (preferably in triplicate should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Renee De Atley, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8157).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Customs ports of entry are locations (seaports, airports, or land border ports), where Customs officers are assigned to accept entries of merchandise, collect duties, clear passengers, examine baggage, and enforce the customs laws and related laws.

In the list of Customs regions, districts, and ports of entry set forth in section 101.3(b), Customs Regulations (19 CFR 101.3(b)), Trout River, Chateaugay, and Fort Covington, New York, are listed as ports of entry in the Ogdensburg, New York, district of the Northeast Region. Since 1972, the Chateaugay and Fort Covington ports have been under the administrative jurisdiction of the port director of Customs at Trout River. This has resulted in an improvement in the overall management of these three ports, as well as a considerable cost savings due to a reduction of management and clerical support personnel.

However, inasmuch as Chateaugay and Fort Covington are still listed as ports of entry in the table of Customs organization in section 101.3, there remains considerable duplication of effort and severe restrictions on manpower utilization.

After a comprehensive study of the ports of Trout River, Chateaugay, and Fort Covington, Customs has concluded that the most efficient and effective use of its resources would be made by formally consolidating these three ports into one port with its headquarters at Trout River. This change would eliminate duplication of port functions and permit better control of staffing resources without impairing services to area businesses or the general public. The existing Customs work force would be retained.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Imports, Organization and functions (Government agencies).

Proposed Regulations Amendments

PART 101—GENERAL PROVISION

1. It is proposed to amend section 101.3(b), Customs Regulations (19 CFR 101.3(b)), by removing Chateaugay and Fort Covington from the list of Customs ports of entry, and by indicating that Chateaugay and Fort Covington are part of the consolidated port of Trout River. The entry for "Trout River (T.D. 56074)" would be revised to read "Trout River (Chateaugay, Fort Covington) (T.D. 56074,—)".

2. It is proposed to amend section 101.4(c), Customs Regulations (19 CFR 101.4(c)), by removing Chateaugay as the port of entry having supervision over the Customs station of Churubusco, N.Y., and by inserting Trout River in its place.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Authority

Customs ports of entry are established under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR, 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101–5 (47 FR 2449).

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Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. There will be no reduction in Customs service as a result of this change.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

Because this change relates to the organization of the Customs Service, pursuant to section 1(a)(3) of Executive Order 12291, it will not result in a regulation or rule subject to the Executive Order.

Drafting Information

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Alfred R. De Angelus,
Acting Commissioner of Customs.

Approved: April 27, 1983.
Robert E. Powis,
Acting Assistant Secretary of the Treasury.

[Published in the Federal Register, May 16, 1983 (48 FR 21966)]

U.S. Customs Service

General Notices

19 CFR Part 133

APPLICATION FOR RECORDATION OF TRADE NAME: "UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPE FITTING INDUSTRY OF THE UNITED STATES AND CANADA"

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Application for Recordation of Trade Name.

SUMMARY: Application has been filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPE FITTING INDUSTRY OF THE UNITED STATES AND CANADA," used by the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, an unincorporated association, located at 901 Massachusetts Avenue, NW., Washington, D.C. 20001.

The application states that the trade name is used by the Association to identify its union activities, which include the formation of local labor unions in the plumbing and pipe fitting industry, as well as certifying (1) that pipe, fabricated pipe, welded pipe and fabricated welded pipe formations were made by members of United Association's local unions and (2) that the services of fabricating and assembling such goods were performed by members of United Association's local unions. The Association's member unions and their members are authorized to use the trade name in the United States and Canada.

Before final action is taken on the application, consideration will be given to any relevent data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the Federal Register.

DATES: Comments must be received on or before July 11, 1983.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Entry, Licensing and Restricted Mer-

chandise Branch, 1301 Constitution Avenue NW., Room 2417, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5765).

Dated: May 4, 1983.

A. PIAZZA,
Acting Director,
Entry Procedures and Penalties Division.

[Published in the Federal Register, May 11, 1983 (48 FR 21231)]

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19 CFR Part 111

EXTENSION OF TIME ON PROPOSED CUSTOMS REGULATIONS AMENDMENTS RELATING TO CUSTOMHOUSE BROKERS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of extension of time for comment.

SUMMARY: This notice extends the period of time within which interested members of the public may submit written comments with respect to a Customs proposal to amend the Customs Regulations relating to customhouse brokers. A document inviting the public to comment on the proposal was published in the Federal Register on April 7, 1983 (48 FR 15154). Comments were to have been received on or before June 6, 1983. A national association has requested Customs to extend the period for the submission of comments claiming that because of the many issues raised and the need to solicit comments from its members throughout the United States, additional time is needed to prepare and submit thorough comments. Customs believes the request has merit. Accordingly, the period of time for the submission of written comments is extended to July 5, 1983.

DATE: Comments must be received on or before July 5, 1983.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Consitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Margaret M. O'Rourke, Chairperson, Customs Headquarters Task Force on Broker Licensing and Regulation, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, 202-566-8047.

Dated: May 6, 1983

JOHN P. SIMPSON,
Director,
Office of Regulations and Rulings.

[Published in the Federal Register, May 12, 1983 (48 FR 21343)]

ERRATUM

In CUSTOMS BULLETIN, Vol. 17, No. 14, dated April 6, 1983, in T.D. 83-76, the citation to 19 U.S.C. 1313(b) in the second paragraph should be corrected to read "19 U.S.C. 1313(a)".

United States Court of International Trade

Decisions of the United States Court of International Trade

(Slip. Op. 83-38)

JARVIS CLARK CO., PLAINTIFF, *v.* UNITED STATES, DEFENDANT

Court No. 81-9-01163

Before FORD, *Judge.*

Tippler Hoppers

Certain "tippler hopper" cars which run on rails and are used to transport ore in a mine are claimed to be other excavating * * * and extracting machinery under Item 664.08, TSUS, *held* to be "Railroad and railway rolling stock * * * other cars, not self-propelled" under Item 690.15, TSUS, as classified.

The hopper cars are excluded from classification under Item 664.08, TSUS, as other excavating or extracting machinery by virtue of Headnote 1(i), Schedule 6, Part 4, Subpart B.

[Judgment for defendant.]

(Decided May 2, 1983)

Glad, White & Ferguson (*Edward N. Glad* on the memorandum brief) for the plaintiff.

J. Paul McGrath, Assistant Attorney General; *Joseph I. Liebman,* Attorney in Charge, International Trade Field Office, Commercial Litigation Branch (*Michael P. Maxwell* on the memorandum brief) for the defendant.

FORD, *Judge:* This action is before the court on plaintiff's motion and defendant's cross-motion for summary judgment under Rule 56 of the rules of this court. Plaintiff has abandoned all claims as to all merchandise other than the "tippler hoppers". The merchandise was classified within the provisions of Item 690.15, Tariff Schedules of the United States, as other cars not self-propelled under the superior heading "railroad and railway rolling stock" and, as such, assessed with duty at 18 percent ad valorem.

Plaintiff contends the imported merchandise is properly subject to classification under Item 664.08, Tariff Schedules of the United States, as modified by Presidential Proclamation 4707 as "* * * other excavating * * * and extracting machinery * * * whether stationary or mobile, for earth, minerals, or ores * * *" and, as such, subject to duty at 4.7 percent ad valorem or 4.4 percent ad valorem, depending upon the date of entry.

The pertinent statutory provisions involved herein provide as follows:

690.15	Railroad and railway rolling stock: Passenger, baggage, mail, freight and other cars, not self-propelled
	Mechanical shovels, coalcutters, scrapers, bulldozers, and other excavating, levelling, boring, and extracting machinery, all the foregoing, whether stationary or mobile, for earth, minerals, or ores; pile drivers; snow plows, not self-propelled; all the foregoing and parts thereof:
*	* * * * * *
664.08	Other

The parties have agreed the following facts are not in dispute:

1. Only the "tippler hoppers" in entries 274883, 324007, 325660 and 326919, covered by the above entitled action, were classified under Item 690.15, TSUS, as railroad and railway rolling stock.

2. The tippler hoppers are designed for and used only to haul earth, minerals, or ores out of underground mines.

3. The said tippler hoppers run on rails laid in underground mines.

4. The tippler hoppers are not self-propelled.

5. The standard gauge for railroad and railway rolling stock in the United States is 4 feet 8½ inches.

6. The gauge of the tippler hoppers imported by plaintiff is either 20 inches, 30 inches, or 36 inches.

7. The tippler hoppers imported by plaintiff are not equipped with brakes and do not conform to all safety standards promulgated for railroad cars.

Based upon the foregoing facts it is the position of plaintiff that the imported merchandise does not fall within the common meaning of railroad or railway rolling stock, nor is it ejusdem generis with such phraseology. Defendant contends the cars are not excavating or extracting machinery as claimed.

It is apparent, based upon paragraph 2 of the agreed facts, the sales brochure attached to plaintiff's motion, as well as the affidavit of James Lloyd Stevens also attached to said motion, that the cars are used to transport ore and are not excavating or extracting machinery. Mr. Steven's affidavit states:

> That the mining trucks involved herein are sold and used by private corporations solely as a transportation vehicle for ores and waste in underground mining.

Examination of the tariff classification study does not assist in ascertaining the intent of Congress in enacting the language of Item 664.08. The language of Heading 84.23 of the *Brussels Nomenclature* has been held to be substantially the same as the superior heading of Item 664.08, TSUS. *The Servco Co.* v. *United States,* 68 Cust. Ct. 83, 90, C.D. 4341 (1972), *aff'd,* 60 CCPA 137, C.A.D. 1098, 477 F.2d 579 (1973). It has been held the *Brussels Nomenclature* is an appropriate source of legislative history of the TSUS when the language of the corresponding provisions is the same or similar. *Schwarz* v. *United States,* 57 CCPA 19, C.A.D. 971, 417 F.2d 1391 (1969).

Heading 84.23 of the Brussels Nomenclature covers the following:

> EXCAVATING, LEVELLING, BORING AND EXTRACTING MACHINERY, STATIONARY OR MOBILE, FOR EARTH, MINERALS OR ORES (FOR EXAMPLE, MECHANICAL SHOVELS, COAL-CUTTERS, EXCAVATORS, SCRAPERS, LEVELLERS AND BULLDOZERS); PILE-DRIVERS; SNOW-PLOUGHS, NOT SELF-PROPELLED (INCLUDING SNOW-PLOUGH ATTACHMENTS).
>
> This heading covers machinery, *other than* agricultural machinery (*heading 84.24*), for "attacking" the earth's crust (e.g.:—for cutting and breaking down rock, earth, coal, etc.; earth excavation, digging, drilling, etc.), or for preparing or

compacting the terrain (e.g., scraping, levelling, grading, tamping or rolling). It also includes pile-drivers, snow-plough attachments and non-self-propelled snow-ploughs.

The hopper cars involved herein are not used for "attacking" the earth's crust, etc., nor are they ejusdem generis with any of the exemplars listed. The court is therefore of the opinion that the hopper cars do not fall within the language of Item 664.08.

Defendant, in addition, contends said cars are excluded from classification thereunder by virtue of Headnote 1(i), Schedule 6, Part 4, Subpart B, which reads as follows:

> 1. This subpart does not cover—
> (1) cranes or other machines mounted on vehicles, on vessels or other transport equipment * * *

Plaintiff, in reply, asserts a hopper car does not constitute a machine for tariff purposes, since it has only one moving part. If this is so, and the court does not so find, then as indicated by defendant, plaintiff cannot claim under Item 664.08, since said provision provides the article to be machinery. If, on the other hand, the cars are machines, classification under Item 664.08 is precluded by virtue of the headnote.

Plaintiff has failed to overcome the classification of customs under Item 690.15. Accordingly the action is dismissed and the classification is sustained.

Judgment will be entered accordingly.

(Slip Op. 83-39)

CHEVRON STANDARD LIMITED AND CHEVRON CHEMICAL COMPANY, PLAINTIFFS *v.* UNITED STATES, DEFENDANT

Court No. 82-8-01175

Before BOE, *Judge.*

Memorandum Opinion and Order of Remand

(Dated May 3, 1983)

Donohue and Donohue (Joseph F. Donohue, William J. Phelan and *George W. Thompson* on the brief) for the plaintiffs.

J. Paul McGrath, Assistant Attorney General *(David M. Cohen,* Director, Commercial Litigation Branch and *Francis J. Sailer* on the brief) for the defendant.

BOE, *Judge:* Pursuant to Rule 56.1(c) of the rules of this court, the plaintiffs move for review on the record of the determination of the International Trade Administration (ITA) to postpone action on the application of the plaintiffs to revoke a 1973 antidumping finding against plaintiffs. 47 Fed. Reg. 31911 (July 23, 1982). Plaintiffs contend that the ITA determination is unlawful because it is not supported by substantial evidence on the record, 19 U.S.C. § 1516a(b)(B), and is arbitrary and capricious within the meaning of

the Administrative Procedure Act and established precedent. *See* 5 U.S.C. § 706.

On December 17, 1973, the Department of Treasury issued a finding of dumping with respect to imports of sulphur from Canada. 38 Fed. Reg. 34655 (December 17, 1973). The finding included sulphur produced by the plaintiffs. In 1978, the plaintiffs applied to Treasury for exclusion from the finding on the ground that it had made no sales of sulphur at less than fair value for more than two years. After its review Treasury made a tentative determination to modify the 1973 dumping finding by revoking its applicability to five Canadian sulphur producers including the plaintiffs. 44 Fed. Reg. 8057 (February 8, 1979). However, Treasury took no final action on its proposed revocation.

After the administration of antidumping findings was transferred to the ITA by the Trade Agreements Act of 1979, the ITA conducted administrative review of the 1973 dumping finding pursuant to 19 U.S.C. § 1675. In its preliminary determination, the ITA found that the plaintiffs had made no sales of sulphur at less than fair value from May 1, 1977 through February 8, 1979 and that if the tentative findings were made final, the 1973 dumping finding would be revoked with respect to all of plaintiffs' unliquidated entries of sulphur entered after February 8, 1979. 46 Fed. Reg. 21214 (April 9, 1981).

In its final results of administrative review the ITA determined that "all sales were made at not less than fair value by Chevron Standard, Ltd. * * * from May 1, 1977 through February 8, 1979." However, the ITA decided to postpone action on the plaintiffs' application to revoke the 1973 dumping finding. 47 Fed. Reg. 31911 (July 23, 1982). The ITA in explaining why action was being postponed as to the plaintiffs and the two other companies subject to the dumping finding states:

> With regard to the applications for revocation by these three companies, the Department has decided to postpone action. All three companies are significant shareholder members in Cansulex, Ltd., an organization from which the Department has been unsuccessful in obtaining information concerning third-country sales. That information is necessary in order for the Department to review entries made by Mobil Oil Canada and Union Oil Company of Canada. In view of the fact that revocation actions are more discretionary in nature than are routine annual reviews, it is the Department's policy not to exclude any Cansulex member company from the finding until Cansulex complies with our longstanding requests for information, which we consider necessary to our administration of this particular antidumping finding or of the antidumping statute in general.

In sum, the government predicates its decision with respect to Chevron solely on the latter's business relationship with Cansulex

and the refusal of Cansulex to disclose the information requested by ITA.

The record reveals that Chevron and 16 other companies are shareholders in Cansulex, a corporation incorporated under Canadian law. An officer of Chevron is one of eight members of the board of directors of Cansulex. The shares of the 16 producer members of Cansulex are based on the commitment percentages of sulphur supplied annually by each of the member producers to Cansulex.

Despite the government's strenuous contention that such a shareholder interest possessed by Chevron in Cansulex justifies the discretionary determination made by the ITA in its final results of administrative review, the court is of the opinion that the undisputed facts contained in the record neither support nor justify the decision of the ITA upon the grounds on which it is premised.

The information which the ITA desires to obtain from Cansulex relates solely to the sales of sulphur by two other independent corporate producers of sulphur who likewise are shareholders in the latter corporation. (Mobil Oil Canada and Union Oil of Canada). No information requested by ITA to be furnished by Cansulex relates in any manner to Chevron. The government acknowledges that with respect to the sulphur produced by it, Chevron has furnished all information desired as to its sales and that no reason exists to believe that such information in the future would not continue to be furnished, if requested.[1] The final results of administrative review by the ITA disclose that all sales by Chevron were made at not less than fair value from May 1, 1977 to February 8, 1979, and that the Treasury Department had previously concluded in its investigation that all sales of Chevron from January 1, 1976 through April 30, 1977, likewise had been made at not less than fair value. In view of the foregoing the ITA further determined that all entries made within the period of its investigation, May 1, 1977–February 8, 1979, should be liquidated by Customs without regard to dumping duties. Nor was a deposit of antidumping duties to be required as provided by section 353.48(b) of the Commerce regulations.

The record does not serve to corroborate the government's characterization of Cansulex as recalcitrant in its conduct. In its reply to the request of ITA, Cansulex advised that much of the information sought was of a nature "not routinely given out by Cansulex to its shareholders or its directors." It, accordingly, appears that the relationship between Cansulex and each of its individual 16 corporate shareholder members is confidential. With respect to the information sought by ITA, Cansulex further advised that the individual shareholders (Mobil Oil and Union Oil) had been furnished this information (by Cansulex) and could provide the same. A.R. 658, 659, 660. In view of the confidentiality existing between Cansulex

[1] Defendant's Memorandum Brief, page 27.

and its individual 16 shareholder members, the court finds little merit in the argument of the government that Chevron should have used greater influence with the remaining seven directors with respect to the disclosure of information as to Mobil Oil and Union Oil Corporation.[2]

In a letter directed to Cansulex by ITA under date of December 11, 1981, the assertion was made that several member companies of Cansulex "have been faced with potentially damaging dumping assessments." It was further asserted therein that in refusing to supply the information requested by ITA, the Cansulex directors may not have "fully appreciated the potential consequences of their actions." A.R. 606. The dialogue between the ITA and Cansulex, as further evidenced by the reply of counsel for Cansulex to ITA under date of January 11, 1982, casts a grave reflection upon the United States Government. The letter of the counsel for Cansulex stated in part:

> Your suggestion that in this matter the Directors of Cansulex or any of them should put the best interests of any particular Shareholder ahead of the best interests of Cansulex and its Shareholders as a whole has not been well received. Furthermore, in view of the legal duty of each Director as outlined above, the threat set forth in the above-quoted third sentence of the second last paragraph of your letter of December 11, 1981 is unconscionable. A.R. 658

Cansulex is an entity created and recognized under the law of a sovereign nation. Similar to the laws of the United States, the laws of Canada recognize the legal status of the plaintiffs as a shareholder in Cansulex. The corporate affairs of and decision made by Cansulex are separate and distinct from the corporate affairs of its respective shareholders. To predicate a decision to postpone a determination of Chevron's application for a revocation of the dumping finding solely on the questionable policy of ITA not to exclude any Cansulex member shareholder from a dumping finding until Cansulex complies with the request sought by ITA is to read into the statutes and the department's own regulations a requirement and standard never contemplated. See 19 U.S.C. § 1675(c); 19 CFR § 353.54.[3] The "policy" reason cited by the ITA is tantamount to a penalty which the department seeks to impose arbitrarily because of the alleged recalcitrance of a third party—not privy in any manner to the matter relating to plaintiffs' application for revocation of the dumping finding. In the absence of evidence that Chevron had a controlling ownership interest in Cansulex and that joint

[2] The officer of Chevron on the board of directors of Cansulex abstained from voting on the question of disclosure.

[3] While admitting that Cheveron has satisfied two of the three prerequisites to revocation of a dumping finding under 19 CFR § 353.54, defendant contends that plaintiffs' involvement with Cansulex and the refusal of Cansulex to release to the ITA the requested information prevent the ITA from being "satisfied that there is no likelihood of resumption of sales at less than fair value." 19 CFR § 353.54(a). However, plaintiffs have agreed to a reimposition of the dumping finding should its merchandise be sold at less than fair value. It can do nothing more to guarantee that it will not resume sales at less than fair value.

records were maintained with respect to the business affairs of Cansulex and Chevron, the attempt by ITA to pierce the corporate veil with which the corporate entity of Cansulex is clothed is neither justified nor proper. *American Trading and Production Corp.* v. *Fischback and Moore, Inc.,* 311 F. Supp. 412 (N.D. Ill. 1970).

The government seeks to justify the determination of the ITA by urging that the basis for its decision in postponing action on plaintiffs' application was within its discretionary authority vested by statute and regulation. The court recognizes that discretionary authority has been granted to the ITA in the performance of its administrative duties. However, the grant of discretionary authority to an agency by Congress implies that the exercise of that discretion is predicated upon a judgment founded upon facts which are related and applicable to the matter upon which the determination is to be made. A connection must exist between some rational reasoning and the discretionary determination which is exercised. *Burlington Truck Lines, Inc.* v. *United States,* 371 U.S. 156 (1962).

It is the opinion of this court that the determination of the ITA in postponing action on the application of the plaintiffs for revocation of a dumping finding has been based on a ground neither reasonable nor related to the subject matter of plaintiffs' application. 19 U.S.C. § 1516a(b).

Accordingly, the within proceedings are remanded to the ITA for reconsideration of the final results of the administrative review conducted by it insofar as it relates to the plaintiffs and, absent consideration of the conduct on the part of Cansulex, make a determination in the final results of its administrative review in accordance with the facts ascertained from its investigation of the dumping findings previously made relating to sales at not less than fair value by the plaintiffs.

The determination made by ITA in its reconsideration shall be submitted to this court within a period of thirty (30) days from and after the date of entry of the within Order.

(Slip Op. 83-40)

ZENITH RADIO CORPORATION, ET AL., PLAINTIFFS *v.* UNITED STATES, DEFENDANT

Consolidated Court No. 81-6-00734

MEMORANDUM AND ORDER

(Dated May 4, 1983)

WATSON, *Judge:* In April, the Court sounded the death knell for the continuation of this action by COMPACT and the Imports Committee when it found that they lacked standing. *Zenith Radio Corp.* v. *United States,* 5 CIT—Slip Op. 83-32 (April 3, 1983). At the same

time, the Court allowed additional time for responses to the motion by COMPACT to allow three of its member unions to be added as parties plaintiff.

Those unions are the International Brotherhood of Electrical Workers; the International Union of Electrical, Radio and Machine Workers; and the Independent Radionic Workers of America. It is undisputed that they are interested parties and the Court found that they had participated in the administrative proceedings.

The Court has considered the responses, which take the form of objections by the government and the defendant-intervenors to the allegedly unjustifiable lateness of the motion to add parties and the prejudice it will cause. In ruling on this motion the Court is dealing with Rules 17(a) and 21 as they relate to the substitution or addition of parties and Rule 15 on the subject of amended pleadings.

The unions' predicament does not have quite the same appeal to the Court's discretion as that of an Arkansas widow in a wrongful death action. See, *Crowder* v. *Gordon's Transport, Inc.,* 387 F.2d 413 (8th Cir. 1967). Nevertheless, at this time the Court is inclined to exercise its discretion in a lenient manner, where it sees the late emergence of the correct party as understandable in the context of a relatively new and complex field of litigation. The Court does not view COMPACT's failure to act in accordance with the writing on the wall in *Matsushita Electric Industrial Co.* v. *United States,* 2 CIT 254 (1981), as the sort of calculated defiance or inexcusable ignorance of settled law which might discredit a later attempt at correction.

In these more fluid circumstances the Court chooses to display a flexible attitude in adding parties and allowing amendment. *Mullaney* v. *Anderson,* 342 U.S. 415 (1952); *Foman* v. *Davis,* 371 U.S. 178 (1962); 3A J. Moore & J. Lucas, *Federal Practice.* ¶¶ 15.15[4.–2], 17.15–1 (2d ed. 1982).

This simply means that in law, as in life, some things are excusable in infancy. At this stage in the development of these judicial reviews the Court is of the opinion that the participation of genuinely interested parties is most important to the overall objectives of achieving justice through judicial review and outweighs the inconvenience which may result to the other parties, not to mention to the Court itself.

For these reasons, the Court will allow the addition of the three unions as plaintiffs and will further allow the filing of their amended complaint, and it is so ORDERED.

The Court hereby terminates the participation in the action by COMPACT and the Imports Committee by granting defendant-intervenors' motion for judgment on the pleadings as to them, and it is so ORDERED.

Decisions of the United States Court of International Trade

Abstracts

Abstracted Protest Decisions

DEPARTMENT OF THE TREASURY, *May 5, 1983.*

The following abstracts of decisions of the United States Court of International Trade at New York are published for the information and guidance of officers of the Customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to Customs officials in easily locating cases and tracing important facts.

WILLIAM VON RAAB,
Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Item No. and Rate	Item No. and Rate		
P83/128	Rao, J. April 28, 1983	Henry Wedemeyer, Inc.	78-10-01731	Item 737.80 22%	Item 774.60 8.5%	Nadel & Sons Toy Corp. v. U.S., Slip Op. 82-56 (CIT 7/15/82	New York Savings Banks
P83/129	Rao, J. April 28, 1983	Russ Berrie & Co., Inc.	81-10-01413	Item 737.40 17.5%	Item A737.40 Free of duty under the GSP	Agreed statement of facts	Miami Toy figures of animate objects, not stuffed, of plush material; products of beneficiary developing country
P83/130	Newman, J. April 28, 1983	Webco Electronics	73-1-00175, etc.	Item 685.30 8% or 6.5%	Item 678.50 6% or 5%	Montgomery Ward & Co. v. U.S. (C.D. 4573)	New York Webcor brand AM/FM/MPX stereo radio receivers with 8-track tape players
P83/131	Rao, J. May 3, 1983	British Steel Corporation	79-11-01691	Item 608.46 7%	Item 608.71 0.25¢ per lb.	Agreed statement of facts	Detroit Steel wire rod

P83/132	Boe, J. May 3, 1983	Sanyo Electric Inc.	80-7-01144, etc.	Merchandise separately classified under items 715.49, 716.12, 720.14, 720.16, 720.18, etc. and assessed with duty at various rates	Item 676.21 5%, 4.8%, 4.7% or 4.5% (merchandise marked "A") Item 678.50 5%, 4.8%, 4.7% or 4.5% (merchandise marked "B") Item 685.24 10.4%, 9.9%, 9.3% or 8.8% (merchandise marked "D") Item 685.50 7.5%, 6.9% or 6.5% (merchandise marked "E") Item 687.45 5.5%, 5.3%, 5.1% or 4.9% (merchandise marked "F")	Texas Instruments, Inc. v. U.S. Slip Op. 81-31 (CIT 4/17/81), aff'd 3/25/82	New York Solid state timing devices; entirety with article in which incorporated (merchandise marked "A", "B", "D", "E", "F")

Decisions of the United States Court of International Trade

Abstracts

Abstracted Reappraisement Decisions

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R83/386	Re, C. J. May 3, 1983	Korvettes, Div. of Arlen Realty & Development Corp.	78-12-02301	Export value	Appraised values shown on entry papers less additions included to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York Not stated
R83/387	Re, C. J. May 3, 1983	Sultra Corporation	78-8-01528, etc.	Export value	Appraised values shown on entry papers less additions included to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York Not stated
R83/388	Watson, J. May 3, 1983	B.P.M. International Ltd.	R64/18633	Export value	F.o.b. unit prices plus 20% of difference between f.o.b. unit prices and appraised values	Agreed statement of facts	New York Transistor radios and any accessories and parts; entireties

R83/389	Watson, J. May 3, 1983	Compass Instrument & Optical Co. Inc., et al.	R62/13720, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Binoculars, etc.
R83/390	Watson, J. May 3, 1983	Harper, Robinson & Co., a/c/ Starlight Trading, Inc.	R59/8901, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	Los Angeles Cotton articles
R83/391	Watson, J. May 3, 1983	Joseph Markovits, Inc.	R58/10033, etc.	Export value	Appraised values less 7.5% thereof	Agreed statement of facts	New York Artificial flowers
R83/392	Watson, J. May 3, 1983	Louis Goldey Co., Inc.	R64/21300, etc.	Export value	Appraised values less 7.5% thereof	Agreed statement of facts	Savannah Tiles
R83/393	Watson, J. May 3, 1983	Mitsui & Co. Ltd.	R63/11841, etc.	Export value	Appraised values less 7.5% thereof	Agreed statement of facts	Los Angeles Sewing machine heads
R83/394	Watson, J. May 3, 1983	National Silver Co. et al.	R64/21303, etc.	Export value	Appraised values less 7.5% thereof	Agreed statement of facts	Boston Porcelaineware, earthenware
R83/395	Watson, J. May 3, 1983	Oriental Exporters, Inc.	R63/13023, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Transistor radios and any accessories and parts; entireties
R83/396	Watson, J. May 3, 1983	Rugby International Corp.	R64/22904, etc.	Export value	Appraised values less 7.5% thereof	Agreed statement of facts	New York Tube mats, etc.
R83/397	Watson, J. May 3, 1983	Rugby International Corp.	R67/6289, etc.	Export value	Appraised values less 7.5% thereof	Agreed statement of facts	New York Tube mats, etc.

Appeals to U.S. Court of Appeals for the Federal Circuit

APPEAL 83-956.—Amersham Corp *v.* United States.—INSTRUMENTS.— Appeal From Slip Op. 83-11 Filed on April 12, 1983.

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